

14 DEC 1976

MEMORANDUM FOR: Director of Central Intelligence

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : Revisions to the Law on Freedom of
Information

Sir:

In response to your request for suggestions on revising the law on freedom of information, I am attaching some comments on this subject which [] put together. Certainly there are other issues in the law worth addressing, but the two biggest headaches we face in responding to the Freedom of Information Act are the time limits imposed on responses and the requirement to handle requests from foreign nationals. If revisions in these two areas alone can be accomplished, they would relieve the administrative burden on the one hand and ensure that CIA is not being harrassed, at least directly, by foreign intelligence services on the other.

STATINTL

/s/John E. Blake

John F. Blake

Attachment: a/s

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O/AI/DDA: []:ydc (13 Dec 76)

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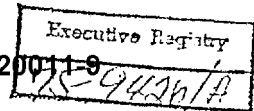
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SUGGESTIONS FOR REVISIONS TO FOIA

1. CIA would like to emphasize the point that the time limit on FOI responses is not realistic. Security and compartmentation based on "need-to-know" within the Agency necessitate a decentralized records system which cannot be accessed fully within ten days. Thus, in most cases we are not complying with the letter of the law in regard to deadlines. A routine search through one records system may provide leads to one or several others which will delay a final response further. In addition to such internal referrals, the number of documents found in a search will increase the processing time proportionately. There is always the danger of an erosion of security through human error caused in the haste to handle large volumes of material within the time limits. A more realistic deadline might be 45 calendar days, or a graduated scale dependent on the volume of records surfaced.
2. We suggest the Freedom of Information Act be amended to limit requesters to U.S. citizens. Although requests from foreign nationals have not been overwhelming to date, the potential for CIA becoming a worldwide information service exists should foreign journalists and intelligence services decide to use the FOI mechanism. The release of extensive information about foreign organizations or personalities could result in serious liaison problems with local services and raise anxiety among intelligence sources as to the confidentiality and protectability of their relationship with CIA. We have no specific instances to cite, but intelligence officers at all levels are concerned about the potentially harmful effects of freedom of information on our ability to recruit and retain agents. We have had reports of cases where people have declined to assist us for fear such a relationship would be exposed.
3. Congress should consider allowing agencies to charge for the true cost of FOI search and review. In calendar year 1975, CIA spent \$1,392,000 in salaries to process FOI requests but collected fees of approximately \$1,900. In an intelligence organization, the majority of documents are classified, so that detailed review is required to adequately delete sources and

methods information before release. Although an agency may charge specified fees for search time, such monies represent only a fraction of the actual cost of services.

4. The release of information through the litigation process is a genuine concern for which we have no answer. The threat of litigation for failure to release information may conflict with the DCI's statutory obligation to protect intelligence sources and methods. In a recent case, Klaus v. CIA (USDC-DC--Civil Action #76-1274), Judge Gerhard Gesell ruled that because of the court's lack of training or competence to judge the national security implications of release of classified material, the court should rely on the Government affidavits to determine the validity of classification. This was certainly a landmark in CIA's favor, but other cases may not be decided in this manner and could result in a conflict between the two laws.



OGC 75-4756
20 DEC 1975

Honorable Bella S. Abzug
Chairwoman
Government Information and Individual
Rights Subcommittee
Committee on Government Operations
House of Representatives
Washington, D. C. 20515

Dear Madame Chairwoman:

This is in response to your letter of November 10, 1975 requesting status of Freedom of Information requests now pending with this Agency as well as certain related information. In your letter you refer to numerous complaints from citizens regarding our failure to meet the specified time limits in the Freedom of Information Act. We are aware of this problem and have adopted all possible procedures to respond substantively to requests within the specified time limits. For numerous reasons explained in this letter, it is just impossible to meet these deadlines. In the case of persons requesting their own files, we do acknowledge receipt of the request within 10 days.

Requests for information by the public have been received pursuant to the Freedom of Information Act, the Privacy Act of 1974, and under the declassification procedures of Executive Order 11652. The following data reflects the total number of requests received from January 1, 1975 to November 20, 1975.

Total Requests Received and Registered

Freedom of Information Act	6,500
Privacy Act	293
Executive Order 11652	<u>196</u>
Total	<u>6,989</u>

Of this total figure 6,324 were requests by individuals for information pertaining to themselves. At present 1,715 requests are pending.



The total number of appeals received from January 1, 1975 to November 20, 1975 is 254. Of this figure 245 were filed pursuant to the Freedom of Information Act and 9 were filed pursuant to the criteria under Executive Order 11652. At present 55 appeals are pending.

The average number of final decisions made weekly is 188.45. This figure is reached on the basis of a study of the latest 20-week period. The weekly figures range from 77 to 492.

A study based on 767 requests made during September shows the following breakdown on the elapsed time needed to fully respond to requests.

<u>No.</u>	<u>Within</u>
7	One week
199	Two weeks
252	Three weeks
21	Four weeks
10	Five weeks
12	Six weeks
7	Seven weeks
8	Eight weeks
10	Nine weeks
7	Ten weeks
5	Eleven weeks

As of November 20, 1975, 229 requests were not fully closed. In many of these cases, the requester was asked for additional information to assure ourselves of the identity of the requester, and we are awaiting replies. In other instances the delay is caused by the need to clarify the description of the information requested or to get assurances with regard to the payment of fees for nonpersonal record requests.

As a matter of policy, the CIA has waived all fees for requests by individuals for information pertaining to them and has waived search fees on all but 7 percent of the remaining substantive requests.

A number of factors, including the large number of requests received, have contributed to our inability to respond to all requests within 10 days. The number of man-hours devoted to Freedom of Information and Privacy Acts requests is equivalent to over 100 full-time employees and is steadily increasing. In

addition, the various congressional committees investigating intelligence activities have requested large amounts of records which must be processed by those components also involved in Freedom of Information duties.

Another factor is the necessarily time-consuming process involved in searching the various CIA record systems for information about individuals. As I noted in my testimony before your Subcommittee on March 5 of this year, the CIA does not generally maintain "files" on individuals nor do we maintain any central index reflecting references to all Agency recordholdings on any one individual. Information about or incidental references to individuals may be located in various record systems. In our publication of record systems in the Federal Register pursuant to the provisions of the Privacy Act, we list 57 such systems--most dealing with personnel or security matters. If an individual makes a request for any or all information we have held which refers to such person, we must search a large number of separate record systems.

A thorough search of all record systems which could possibly contain reference to an individual is a lengthy process frequently taking more than 10 days even when no records exist. Often, where a record does exist, the information is stored in the Agency Records Center and at least 2 or 3 days are required to retrieve it.

Although the great majority of requests received have been from those individuals seeking access to information pertaining to themselves, a number of requests are for substantive data which may involve thousands of pages of records and the mere gathering together of such data, not to mention its review, is again a lengthy process. Where classified information is involved, a referral to the agency of origin is required under Executive Order 11652. The mechanics of such referrals require additional time.

A thorough appellate review of initial denials also by necessity often consumes more time than the 20 days allotted by the Act. Although the information at issue has been retrieved and initially reviewed before the appellate stage, each appeal is individually considered by a senior official or in some cases by the entire Information Review Committee, which consists of 7 of the most senior officers of the CIA. In addition, 7 full-time attorneys have been assigned to Freedom of Information and Privacy Acts matters. These attorneys advise on each appeal and each appeal is treated in a de novo manner resulting in a complete review of all previous determinations. While this process is time-consuming, I believe that it is entirely consistent with the spirit and letter of both Acts.

Although we are hopeful that the inordinate number of inquiries to the CIA may taper off thus enabling quicker responses to each request, more reasonable time limits under the Freedom of Information Act seem justified. Freedom of Information requests involving thousands of documents or numerous series of publications should not be treated under the same time constraints which apply to requests for a single readily identifiable document but should be keyed to the volume of records requested and the complexity of the request.

Sincerely,

~~W. E. Colby~~ W. E. Colby

W. E. Colby
Director

OGC/LJK/CCB

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House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C

WASHINGTON, D.C. 20515

Executive Registry

175-17421

November 10, 1975

Mr. William B. Colby
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Colby:

It has come to our attention, through numerous complaints from citizens, that requests for information directed to the Central Intelligence Agency are not being responded to within the 10-day requirement mandated by the Freedom of Information Act as amended.

While I recognize that you are receiving a number of requests for information at this time, the language of the Act does not permit additional time for this purpose.

Please supply me with a report on the status of Freedom of Information requests now pending, including the number pending, the number of appeals pending, the average length of time it takes to process a request from receipt to final decision, the number of final decisions made weekly, and the number of requests for personal files out of the total number of requests. Also, please indicate what factors might be contributing to the inability of the CIA to respond to requests within the 10-day limit.

Finally, what steps do you believe are necessary for the CIA to take to insure compliance with the law?

Sincerely,

Bella S. Abzug
BELLA S. ABZUG
Chairwoman

75-3959/A

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

16 OCT 1975

Honorable Edmund S. Muskie, Chairman
Subcommittee on Intergovernmental Relations
Committee on Government Operations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am sending herewith the responses of the Central Intelligence Agency to the questions posed by the Subcommittee on Intergovernmental Relations regarding CIA's implementation of Executive Order 11652. I hope our responses will assist the Subcommittee in its study.

We at CIA are dedicated to conducting our activities in a manner consistent with America's open society. The view once held--both inside and outside CIA--that all Agency activities and policies were required to be kept secret, has been replaced by a more pragmatic approach to secrecy. Illustrative of this fact is the 50% reduction in the number of materials we are classifying since the advent of E.O. 11652. Today, without question, CIA is by far the most open intelligence service in the world. Nevertheless, secrecy remains a prerequisite to success in many of our activities, a principle I fear has not been adequately considered in the recent rush to reveal episodes of CIA's past and present.

In conjunction with its study of the classification of information by our Government, I would urge the Subcommittee to also investigate the effect of the recent amendments to the Freedom of Information Act on Federal agencies. The worthy purpose of the Act--to inform our citizenry--should not disguise the adverse effect the amendments have had on the discharge of Governmental business. The impact on CIA is such that I believe it is quite possible that this Agency will not be able to fully and effectively perform the functions and duties for which it was created unless legislative relief is forthcoming. Provisions such as the ten-day deadline for responding to requests (even those involving hundreds of thousands of documents), and the unlimited number of persons who can request documents (even known agents of foreign intelligence services), are particularly troublesome. I believe it is time a responsible Congressional body re-examined the advisability of this Act, in light of the experience of the past several months.

Sincerely,

W. E. Colby

W. E. Colby
Director

Enclosure

